

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

| | | |
|--------------------------|---|--------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | CASE NO. 3:13-CR-105-WKW |
| |) | |
| BRADFORD LAMAR DALEY |) | |
| and TERRIL YARHAM |) | |

ORDER

Before the court is Defendant's Unopposed Renewed Motion to Continue his trial. (Doc. # 38.) Defendant's trial is currently set to begin November 18, 2013. (Doc. # 34.) For the reasons set forth below, the court will grant a continuance of Defendant's trial pursuant to 18 U.S.C. § 3161(h).

While the trial judge enjoys great discretion when determining whether to grant a continuance, the requirements of the Speedy Trial Act ("Act") limit that discretion. 18 U.S.C. § 3161; *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986). The Act provides in part:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

18 U.S.C. § 3161(c)(1). The Act excludes, however, certain delays from the seventy-day period, including delays based upon "findings that the ends of justice

served by taking such action outweigh the best interest of the public and the defendant to a speedy trial.” In determining whether to grant a continuance under § 3161(h)(7), the court “shall consider,” among other things, whether denial would be likely to “result in a miscarriage of justice” or “would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation.” *Id.* at § 3161(h)(7)(B)(ii)(iv).

Defense counsel avers that discovery is voluminous and involves complicated factual and legal issues. Such issues give counsel insufficient time to review the evidence and provide competent advice to Defendant. The court finds that, on balance, the public’s interest in an expeditious trial of Defendant is not so great as to outweigh the risk of a miscarriage of justice if defense counsel does not have the reasonable time necessary for effective preparation.

Accordingly, it is ORDERED that Defendant Daley’s Renewed Motion for Continuance (Doc. # 38) is GRANTED. Trial in this matter – for both Defendants Bradford Lamar Daley and Terril Yarham – is continued from November 18, 2013, to the term of court beginning **March 17, 2014**. The Magistrate Judge is DIRECTED to hold a pretrial conference before the trial date.

DONE this 23rd day of September, 2013.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE